

Remarks/Arguments

Status of Claims

Claims 1-42 and 45-47 are pending in this application. Claims 43 and 44 were withdrawn from consideration in the July 1, 2005 response. Claims 1, 26, 38 and 42 are independent claims. Applicants have amended independent claim 38 to include elements similar to those previously added to independent claims 1, 26 and 42. As such, it is respectfully submitted that the amended language of claim 38 has been previously examined and, therefore, no additional search is required. In addition, claims 1, 26 and 42 have been amended to correct a single typographical error. Applicants respectfully request entry of these amendments. As a final matter, claim 41 has been rewritten in independent form, as new claim 48, to place it in condition for allowance.

Prior Art Claim Rejections

Claims 1-6, 9, 10-13, 26, 30, 31, 42 and 45-47 stand rejected under 35 U.S.C. 103(a) as obvious over Tsiounis (U.S. Pub. 2001/0039535), in view of Solomon (U.S. Pub. 2003/02333305). Similarly, claims 7, 8, 28 and 29 stand rejected under 35 U.S.C. 103(a) as obvious over Tsiounis, in view of Solomon and Rosenberg (U.S. Patent No. 6,363,357). Claims 7, 8, 28 and 29 stand under 35 U.S.C § 103(a) as being unpatentable over Tsiounis in view of Solomon and Rosenberg (U.S. Patent No. 6,363,357).

Claims 14, 15 and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tsiounis, in view of Solomon, and further in view of Rosenberg. Claims 16-25 and 33-37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tsiounis, in view of Solomon, and further in view of Rosenberg. As a final matter, claims 38-40 have been rejected by the examiner under 35 U.S.C. § 103(a) as being unpatentable over Tsiounis. Applicants respectfully traverse these rejections.

New Claim 48 is Allowable

As noted above, claim 41 has been rewritten in independent form as new claim 48. The Examiner has not rejected claim 41 on prior art grounds, or any other grounds. As such, new claim 48 should be allowed, and allowance of the same is hereby respectfully requested.

The Pending Claims are not Obvious

Initially, Applicants reassert, and incorporate by reference, the remarks and arguments from their July 1, 2005 response, as if set out here in their entirety, with respect to the deficiencies of the Tsiounis and Rosenberg references. Independent claims 1, 26, 38 (as amended herein) and 42 include, among other things, communicating in a manner which provides the recipient with an artificial personality of a trusted third party so that the recipient has a perceptible assurance and recognizes the artificial personality of trusted third party.

Tsiounis appears to be the primary reference relied upon by the Examiner. Tsiounis generally addresses computational resources and confidential payment information for authentication purposes. However, the Examiner admits that Tsiounis fails to disclose an "artificial personality", as well as other related elements. As such, the Examiner now asserts that Solomon discloses this element, and the remaining elements related to the artificial personality element.

A close examination of Solomon indicates that it fails to disclose any form of artificial personality, or for that matter, an artificial personality of a trusted third party that provides a perceiving second party with a perceptible assurance that the second party will recognize the artificial personality of the trusted third party. An artificial personality 72R includes reflector templates (create responses reflecting descriptors extracted from a user's input), pseudo-factual statements (describe characteristics of the artificial personality or other putative "facts") and open-ended queries. (Spec. at 0055). Stylistic differences with respect to the above data, combined with information about each user which is contained in the extracted descriptors, give the user a

feeling that he or she is "talking to someone they know". (Spec. at 0055). Solomon fails to disclose such an artificial personality.

Those portions of the Solomon reference cited by the Examiner merely discuss intelligent software agents that perform negotiations between a buyer and at least two sellers, intelligent negotiation Agents (INAs) and Intelligent Transaction Agents (ITAs). (0208) Further, Solomon's paragraphs 0267 and 0386 irrelevantly describe INAs, and artificial intelligence with respect to autonomous agency, respectively. Not once is the term "artificial personality", nor its function, used, described or even alluded to in Solomon. It is, therefore, respectfully submitted that Solomon fails to disclose, teach or suggest an artificial personality, as recited in independent claims 1, 26, 38 and 42.

The Examiner is required to show where the express recitations are found in the asserted art, not just general concepts of tangential relevance. To establish a proper case of obviousness under § 103(a), the Examiner must make a *prima facie* showing that the prior art contains some teaching or suggestion of, or motivation for, all the elements of the claimed invention. In re Piasecki, 223 USPQ 785, 788 (Fed. Cir. 1984); In re Oetiker, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); In re Rijckaert, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). As noted above, Solomon fails to properly disclose an "artificial personality", as recited in independent claims 1, 26, 38 and 42.

Moreover, the Examiner is required to explain how and why one having ordinary skill in the art would have been led to modify an applied reference and/or combine applied references to arrive at the claimed invention. *In re Ochiai*, 37 USPQ2d 1127 (Fed. Cir. 1995); *in re Deuel*, 51 F.3d 1552, 34 USPQ 1210 (Fed. Cir. 1995); *in re Fritch*, 972 F.2d 1260, 23 USPQ 1780 (Fed. Cir. 1992); *Uniroyal, Inc. v.*

Rudkin-Wiley Corp., 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988). In establishing the requisite motivation, it has been consistently held that both the suggestion and reasonable expectation of success must stem from the prior art itself, as a whole. *In re Ochiai*, supra; *in re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); *in re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *in re Dow Chemical Co.*, 837 F.2d 469, 5 USPQ2d 1529 (Fed. Cir. 1988).

Without providing support, the Examiner has asserted a motivation-to-combine reference (Solomon) that does not disclose the recited elements missing from the asserted primary reference. The Examiner cites paragraph 0064 of Solomon that one skilled in the art would have been motivated to make the asserted combination because artificial intelligence is useful, efficient and mobile. Despite the fact that this statement has nothing to do with the recited artificial personality, it is facially improper.

Solomon simply does not address artificial personalities, as recited in the claims of this invention. Accordingly, the fact that artificial intelligence, which is a completely different concept, could be useful completely misses the point and provides no objective reason to combine the teachings of the references, either alone or in combination. It is, therefore, unclear how one could argue any motivation to combine without properly identifying, in the relied-upon reference, at least one of the recited elements of the alleged combination. The Examiner's asserted combination is, accordingly, improper on its face. That is, without the recited "artificial personality" there can be no "requisite motivation."

For at least these reasons, the rejections of independent claims 1, 26, 38 and 42, and their dependent claims should be withdrawn. In addition, dependant claim

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28 is also allowable because the asserted combination(s) do not disclose, teach or suggest claim 28's further provision of the perceptible assurance based upon a pattern of exchanged information.

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Conclusion

In view of the foregoing amendments and remarks, it is respectfully submitted that the claims of this application are now in a condition for allowance and favorable action thereon is requested.

Respectfully submitted,



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